

THE HON'BLE MRS JUSTICE ANIS

CRIMINAL REVISION CASE NO.202 OF 2007

ORDER:

This Criminal Revision Case under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C') is filed by the revision petitioner/accused challenging the judgment dated 05.02.2007, passed by the III Additional Sessions Judge, Tirupati, in Criminal Appeal No.277 of 2004, whereunder and whereby the conviction and sentence passed against the revision petitioner herein for the offence punishable under Sections 304-A of the Indian Penal Code, 1860 (for short, 'IPC') vide judgment dated 27.10.2004 in C.C.No.477 of 2001 passed by the III Additional Judicial Magistrate of First Class, Tirupati, was confirmed.

The revision petitioner herein is the accused, whereas respondent is the State in C.C.No.477 of 2001 before the trial Court. For the sake of convenience, the parties hereinafter will be referred to as they were arrayed in the C.C. before the trial Court.

The brief facts of the case are that P.W.1 was the driver of APSRTC Bus bearing No.AP-10-Z-1479. While he was proceeding to Tirumala from Narsingapuram on 09.04.2001, when reached C.Mallavaram bus stop at about 5.30 am, the bus was stopped for a while for the sake of alighting of the passengers and at that time, one Trax vehicle bearing No.KA-08-M-338 engaged by P.Ws.2 to 6 and others came behind the bus in rash and negligent manner and hit the backside of the bus, as a result, one of the passengers in the Trax vehicle, by name Kanthamani, died on the spot while the other inmates of the vehicle, P.Ws.2 to 6, sustained injuries. The driver of the Trax vehicle escaped from the spot immediately after the accident. P.W.1 and P.W.8, the conductor of the bus, shifted the injured to S.V.R.R.G.G.Hospital, Tirupathi for treatment. After receipt of

complaint, the Mutyalareddipalle Police registered case in Crime No.59 of 2001 and investigated into the matter. After recording the statements of the witnesses, receipt of post mortem certificate and wound certificates of the injured and after completion of investigation, the Investigating Officer filed charge sheet against the accused, driver of the Trax vehicle.

The learned Magistrate took cognizance of the case and examined the accused under Section 251 Cr.P.C. for the offences punishable under Sections 304-A and 338 IPC. During the course of trial, on behalf of the prosecution, P.Ws.1 to 13 were examined and Exs.P1 to P14 were got marked.

After closure of the prosecution evidence, accused was examined under Section 313 Cr.P.C putting the incriminatory material deposited against him. The accused denied the incriminatory material and reported no oral or documentary evidence on his behalf.

After considering the evidence of the prosecution witnesses, the trial Court convicted the petitioner for the offence punishable under Section 304-A IPC and sentenced him to suffer simple imprisonment for a period of six months and to pay fine of Rs.500/-. Aggrieved by the judgment of the trial Court, the petitioner preferred Criminal Appeal No.277 of 2004. The appellate Court, after considering the evidence on record and findings of the trial Court, dismissed the appeal and confirmed the judgment of the trial Court on 05.02.2007.

Aggrieved by the judgment of the appellate Court confirming the conviction passed by the trial Court, the petitioner-accused preferred the present revision.

Learned counsel for the petitioner argued that the petitioner was aged about 21 years at the time of the accident and he has to maintain his family. Further, the offence has taken place about fourteen (14) years back and hence, prayed the Court to take a lenient view.

On the other hand, learned Public Prosecutor appearing for the State argued that the evidence of the witnesses shows that the accused was the driver of the Trax vehicle on the date of accident and he drove the vehicle in a rash and negligent manner due to which one person died and several persons were injured; that the Motor Vehicle Inspector clearly stated that the accident was not occurred due to any mechanical defects; that both the Courts below concurrently gave a finding that the accused committed the offence punishable under Section 304-A IPC, and finally prayed the Court to dismiss the revision case.

Now, the point for determination is --

Whether the revision petitioner/accused is entitled to set aside the concurrent judgments passed by the trial Court and the appellate Court for the offence punishable under Section 304-A?

Point:

A perusal of the record shows that P.W.1 is the *de facto* complainant, who lodged complaint under Ex.P1 stating that on the date of the incident, the accused drove the Trax vehicle bearing No.KA-08-M-338 and dashed the APSRTC bus bearing No.AP-10-Z-1479, due to which one person present in the Trax vehicle died and the other passengers sustained injuries. The evidence of P.Ws.2 to 6 is consistent regarding the manner of the accident and they stated that the accused was rash and negligent while driving the vehicle and caused the accident. Considering the evidence of P.Ws.1 to 13, the trial Court rightly convicted the petitioner for the offence under Section 304-A IPC. Further, considering the evidence on record, the appellate Court also gave a finding that the petitioner was rash and negligent while driving the vehicle due to which one person died and other persons sustained injuries. The petitioner has not made out any case

to interfere with the concurrent findings recorded by the trial Court and the appellate Court.

At this stage, learned counsel for the petitioner contended that the petitioner was young person of 21 years and has family to maintain and suffered fourteen years in this litigation and prayed the Court to take a lenient view.

Considering the facts and circumstances of the case, the order of conviction passed by both the Courts below is hereby confirmed. Insofar as sentence of imprisonment is concerned, in view of the facts and circumstances and considering the request of the leaned counsel for the petitioner to take a lenient view, I am of the view that if the sentence of imprisonment is reduced to some extent it would meet the ends of justice.

Accordingly, the conviction recorded against the revision petitioner/accused by the III Additional Judicial Magistrate of First Class, Tirupati, in C.C.No.477 of 2001 for the offence punishable under Section 304-A IPC as confirmed by the III Additional Sessions Judge, Tirupati in Criminal Appeal No.277 of 2004, is hereby confirmed. But, the sentence of Simple Imprisonment of six months for the offence punishable under Section 304-A IPC is hereby modified and reduced to three (3) months. The sentence of fine imposed for the offence punishable under Section 304-A IPC, is not interfered with. The period of imprisonment already suffered by the revision petitioner/accused is directed to be given set off.

Accordingly, the Criminal Revision Case is disposed of. Miscellaneous petitions, if any, pending in this Criminal Revision Case, shall stand closed.

(ANIS, J)

28th April 2015
RRB

